



Congress of the United States  
House of Representatives  
Washington, DC 20515-3605

June 29, 2022

The Honorable Maria Cantwell  
511 Hart Senate Office Building  
Washington, DC 20510

The Honorable Eddie Bernice Johnson  
2306 Rayburn House Office Building  
Washington, DC 20515

The Honorable Roger Wicker  
555 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Frank Lucas  
2405 Rayburn House Office Building  
Washington, DC 20515

Dear Chair Eddie Bernice Johnson, Chair Maria Cantwell, Ranking Member Frank Lucas, and Ranking Member Roger Wicker:

As you work to construct the China Competition bill, I write urging you to add provisions that prioritize American national security and manufacturing. Specifically, I ask you to build upon provisions passed in the Infrastructure Investment and Jobs Act and the FY22 National Defense Authorization Act to ensure the U.S. government is not reliant on China and other non-allied nations in order to be prepared for any future public health emergency our country may face.

The COVID-19 pandemic highlighted two vulnerabilities: overreliance on unreliable trade partners such as China, and the clear need to foster resilient American industries that can withstand the next crisis. Unfortunately, at the beginning of the COVID-19 pandemic American-made PPE was in short supply due to the small number of domestic manufacturers. Even with some manufacturers shifting production to PPE, American production capacity was ill prepared for the enormous spike in demand.<sup>1</sup>

The U.S. Food and Drug Administration (FDA) regulates PPE when it is used as a medical device.<sup>2</sup> In response to the COVID-induced supply shortage, the FDA changed its enforcement

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<sup>1</sup> Megan Cerullo, *How Companies Pivoted from Making Dresses, Snowboards and Whisky to Face Masks, Gloves and Sanitizer*, CBS NEWS (Mar. 10, 2021), <https://www.cbsnews.com/news/ppe-manufacturing-business-transformations/>.

<sup>2</sup> U.S. FOOD AND DRUG ADMINISTRATION, Personal Protective Equipment for Infection Control, <https://www.fda.gov/medical-devices/general-hospital-devices-and-supplies/personal-protective-equipment-infection-control>.

policy on masks and respirators to allow these products to be imported to the United States even if the proper requirements had not previously been met.<sup>3</sup> This paved the way for Chinese-made PPE to be used in American hospitals.<sup>4</sup> This was a necessary decision in the midst of the global health and supply chain crisis we faced, but it demonstrated the ill preparedness of our domestic production capacity. It also exposed frontline healthcare workers to increased risk. According to CDC testing of mask filtration and quality control in 2020, most of the masks tested (67%) that had achieved China's or other foreign nations' standards did not pass the CDC's standard of above 95% efficiency.<sup>5</sup> These policy decisions and dependency on China revealed a clear need to support domestic production so that we are well equipped to handle future public health crises.

Congress recognized the problems a lack of domestic PPE production can cause. That is why Congress enacted the Make PPE in America Act as part of the Infrastructure Investment and Jobs Act.<sup>6</sup> The Make PPE in America Act requires the Departments of Homeland Security, Health and Human Services, and Veterans Affairs to source their PPE from domestic sources.<sup>7</sup> It also requires these agencies to issue contracts for not less than two-years for PPE.<sup>8</sup> Ensuring long-term contracts for American-made PPE will provide domestic producers the stability needed to invest in increased production. It will also foster a relationship with suppliers that will be crucial to addressing future spikes in PPE demand.

Additionally, the FY22 National Defense Authorization Act prohibits the Department of Defense from procuring PPE from China and other non-allied nations, Although the DoD is already subject to domestic sourcing requirements under the Berry Amendment,<sup>9</sup> there was strong bipartisan and bicameral support for reemphasizing that our PPE supply chain cannot rely on non-allied nations, like China, and enacted a PPE procurement prohibition stating as much.

I respectfully request the final conference agreement build on the DoD policy to prohibit the Federal Government from procuring PPE from China and other countries that pose national security threats to our country. Doing so will not only reduce America's reliance on China and

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<sup>3</sup> Michael J. Werner et al., *PPE Shortages: FDA and Chinese Government Issue New Policies for Masks, Gowns and Gloves*, HOLLAND & KNIGHT (Apr. 6, 2020), <https://www.hklaw.com/en/insights/publications/2020/04/ppe-shortages-fda-and-chinese-government-issue-new-policies>.

<sup>4</sup> Martin Kaste & John Ruwitch, States And Hospitals Are Sourcing Their Own PPE From China, NPR (Apr. 21, 2020), <https://www.npr.org/2020/04/21/840522657/states-and-hospitals-are-sourcing-their-own-ppe-from-china>.

<sup>5</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, PPE CASE REPORT P2020-0112 (2020), available at <https://www.cdc.gov/niosh/npptl/ppecase/pdfs/PPE-CASE-P2020-0112-508.pdf>.

<sup>6</sup> Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 70951 et seq., 135 Stat. 429, 1312–16 (2021).

<sup>7</sup> *Id.* § 70953.

<sup>8</sup> *Id.*

<sup>9</sup> 10 U.S.C. § 4862.

other nations for PPE, but also provide longer term support for domestic supply chain needs, manufacturing, and national security. Thank you for considering this request.

Sincerely,



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Ted Budd  
Member of Congress

CC: Senator Tammy Baldwin  
Senator John Barrasso  
Senator Sherrod Brown  
Senator Richard Burr  
Senator Shelley Capito Moore  
Senator John Cornyn  
Senator Mike Crapo  
Senator Chuck Grassley  
Senator Martin Heinrich  
Senator John Hickenlooper;  
Senator Mark Kelly  
Senator Robert Menendez  
Senator Jerry Moran  
Senator Patty Murray  
Senator Gary Peters  
Senator Rob Portman  
Senator Jim Risch  
Senator Richard Shelby  
Senator John Tester  
Senator Pat Toomey  
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Representative Sylvia Garcia  
Representative Jimmy Gomez  
Representative Mark Green  
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Representative Michael Guest  
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